<u>REMARKS/ARGUMENTS</u>

Favorable reconsideration of this application is respectfully requested.

Initially, applicants note that the previous Amendment filed April 9, 2004 appears to have been an erroneous filing of the previous Amendment filed August 21, 2003. That Amendment filed April 9, 2004 did not reflect the claims discussed during the interview of March 8, 2004. Applicants also note that the basis for the outstanding rejection does not appear to reflect the claim language as discussed during the interview and which was intended to be submitted in the Amendment filed April 9, 2004. Therefore, the present response submits the discussed claims.

However, applicants also note that in the outstanding Office Action of July 6, 2004 a new grounds for rejection was set forth now citing U.S. patent 6,643,696 to <u>Davis et al.</u>, as discussed below. However, as noted above the Amendment filed April 9, 2004 presented a previous amendment and thus did not in actuality present any claim amendments. Therefore, applicants believe the finality of the previous Office Action is improper and the present response should be entered.

Claims 1-36 are pending in this application. Claims 1, 2, 5, 7, 10, 11, 14, 16, 19, 20, 23, 25, 28, 29, 32, and 34 were rejected under 35 U.S.C. § 103(a) as unpatentable over U.S. patent 6,643,696 to <u>Davis et al.</u> (herein "<u>Davis</u>") in view of U.S. patent 6,363,407 to <u>Middleton, III et al.</u> (herein "<u>Middleton</u>"). Claims 8, 17, 26, and 35 were rejected under 35 U.S.C. § 103(a) as unpatentable over <u>Davis</u> and <u>Middleton</u> as applied to claims 1, 10, 19, and 28, and further in view of U.S. patent 6,336,141 to <u>Fujiyama et al.</u> (herein "<u>Fujiyama</u>"). Claims 3, 6, 12, 15, 21, 24, 30, and 33 were rejected under 35 U.S.C. § 103(a) as unpatentable over <u>Davis</u> and <u>Middleton</u> as applied to claims 1, 10, 19 and 23, and further in view of U.S. patent 5,887,216 to <u>Motoyama</u>. Claims 9, 18, 27, and 36 were rejected under 35

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U.S.C. § 103(a) as unpatentable over <u>Davis</u>, <u>Middleton</u>, and <u>Fujiyama</u> as applied to claims 8, 17, 26, and 35, and further in view of <u>Motoyama</u>.

Applicants and applicants' representative wish to thank Examiner Parton for the interview granted applicants' representative on April 8, 2004. During that interview the previous rejections were discussed in detail. Further, during the interview claim amendments were discussed to clarify the claims over the applied art. The present response sets forth the discussed claim amendments. During the interview Examiner Parton indicated that such amended claims appeared to clarify the claims over the previously applied art.

Addressing the above-noted rejections, those rejections are traversed by the present response.

Initially, applicants note each of the independent claims is amended by the present response to clarify features recited therein. Specifically, independent claim 1 now clarifies that "the target application resides in the device prior to any initial external communication connection by the communication unit". The claims are also amended to clarify that both the monitoring unit and the communicating unit are also self-contained in the device. In such ways, in the claimed invention each of the target application unit, and the monitoring and the communicating operations are performed within a single device, and as a result in the claimed invention there is no requirement for a communication device to be connected to any external device to begin the monitoring and logging operation. The other independent claims are also similarly amended as discussed above with respect to independent claim 1.

With respect to the now-cited primary reference to <u>Davis</u>, the claims are believed to clearly distinguish over the teachings in <u>Davis</u>.

<u>Davis</u> is directed to a method for monitoring client use of and interactions with a resource downloaded from a server on a computer network (column 1, lines 33-38). The claims are believed to recite features contrary to such an operation in <u>Davis</u>.

As <u>Davis</u> requires downloading a resource to be monitored, <u>Davis</u> clearly requires an initial communication connection from a communication unit and a monitoring unit. If that was not the case <u>Davis</u> could not download the resource to be monitored.

Further, the further cited prior art to <u>Middleton</u> is similarly deficient.

More particularly, in <u>Middleton</u> communication with a web server needs to be established prior to a monitoring session, as noted at column 3, line 66, to column 4, line 1. Further, in <u>Middleton</u>, that establishment of communication is particularly effectuated by downloading a web page and a JAVA applet program from a web server in a web page. That applet in <u>Middleton</u> is obviously the critical portion of the monitoring unit in <u>Middleton</u>, as indicated in the basis for the outstanding rejection and the Office Action at pages 3-4, paragraph 7b.

In such ways, it is clear that in <u>Davis</u> and <u>Middleton</u> the operation of the target application and the monitoring unit is based on downloading data from a device, for example to which monitored data is to be communicated.

The claimed invention has a different structure and operation. In the claimed invention, each of target application and the monitoring and communicating units are self-contained in the device and operate without any initial connection to an external device by the communicating unit, e.g. without a connection to a destination that is to receive the log of the monitored data.

The above-noted difference stems from the fact that the device of the claimed invention has a different objective than that in <u>Davis</u> and <u>Middleton</u>. More particularly, one objective of the device of the claimed invention is to provide a monitoring of a user's interaction with an interface to determine how the user interacts with the interface. <u>Davis</u> requires a downloading of a resource and <u>Middleton</u> is designed to determine a user's interaction with a web program to change the contents of the web program in essentially real-

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time, for example so that the user can be shown an appropriate or desired advertisement. The claimed invention does not have such objectives.

The claims are amended to clarify that the target application, and monitoring and communication operations are self-contained in the device, to clarify that those features are not received from an external source.

Further, it is clear from the claims that an external source cannot provide the target application, monitoring, and communication functions as those elements are self-contained in the device, in contrast to <u>Davis</u> and <u>Middleton</u> that require elements to be downloaded from an external server.

Also, it is respectfully submitted that the device and teachings in <u>Davis</u> and <u>Middleton</u> could not be modified to meet the above-noted claim limitations as that would destroy the entire objective of the device of <u>Davis</u> and <u>Middleton</u>.

More particularly, <u>Davis</u> has as a specific objective to monitor client use of and interaction with a resource downloaded from the server on a computer network. Modifying <u>Davis</u> to work in a contrary manner would clearly destroy the objective of the device of <u>Davis</u>.

Further, for the device of <u>Middleton</u> to operate properly it must initially download a web page; however, there is no other way for the web page to reach a client.

More particularly, <u>Middleton</u> requires the initial connection to an external server for the device of <u>Middleton</u> to operate. As noted above, <u>Middleton</u> is specifically designed to operate so that the monitored data can change the contents of a web page in real-time. Therefore, for the device of <u>Middleton</u> to properly operate, it must be the case that the connection is initially made prior to the monitoring or else the device in <u>Middleton</u> could not change the contents of the web page in real-time. <u>Middleton</u> also requires initial connection to download the monitoring program.

Further, in <u>Middleton</u> it is the actual target application itself, i.e. the web pages, that also has to be downloaded as it is a web page that is being monitored. That is also in contrast to the claims as currently written in which the target application resides in the device prior to any external connection for communication.

In such ways, applicants respectfully submit that no combination of teachings of <u>Davis</u> in view of <u>Middleton</u> meets the claim features.

Further, applicants respectfully submit that no teachings in the further cited art to <u>Fujiyama</u> or <u>Motoyama</u> can overcome the above-noted deficiencies of <u>Davis</u> and <u>Middleton</u>.

As no other issues are pending in this application, it is respectfully submitted that the present application is now in condition for allowance, and it is hereby respectfully requested that this case be passed to issue.
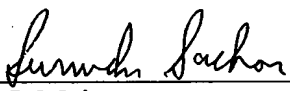
Respectfully submitted,

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